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OFFICE OF PETITIONS

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IRVINE, CA 92614

In re Application of :
Lawrence Kates :
Application No.: 10/718,374 : ON PETITION
Filed: November 198, 2003 :
Attorney Docket No: P1553 :

This is in response to the petition under 37 CFR 1.137(b) filed May 25, 2006.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed November 1, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was filed on May 1, 2006, with a request for an extension of time within the third month. An Advisory Action mailed May 12, 2006 advised petitioner advised that the response of May 1, 2006, would not be entered because it raised new issues. A Notice of Abandonment was mailed on May 17, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the final Office action. The petition states that the response to the final Office action was filed previously on May 1, 2006. The response filed May 1, 2006, was considered previously and the examiner determined that the response filed May 1, 2006, will not be entered. Unless the response filed May 1, 2006, is accompanied by a Request for Continued Examination and the appropriate fee, the response filed May 1, 2006, will not satisfy the reply requirement of 37 CFR 1.137(b). The petition is dismissed, accordingly. The renewed petition must be accompanied by a proper response to the final Office action before the petition will be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

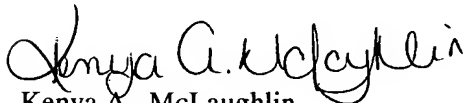
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Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.


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